IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4597 of 2004

to

SPECIAL CIVIL APPLICATION No 4602 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PURSHOTTAM D. GARG

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 4597 of 2004

MR ZUBIN F BHARDA for Petitioner No. 1

MR M R MENGDEY AGP for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 19/10/2004

COMMON ORAL JUDGEMENT

1. The petitioner by way of these petitions has challenged the action of the respondents, whereby, the respondents had fixed the market value of the property in question purchased by the petitioner and had directed the

petitioner, by the impugned orders, to pay-up the amount decided by the said orders along with interest.

2. From the orders itself, it is clear that the authority has not mentioned as to when the R.P.A.D. receipts were received and as to when the hearing had taken place. Apart from that, the authority itself has mentioned a date in the first instance and the impugned orders have been passed on another dates. Prima facie, the impugned orders have been passed in a stereo type manner and it seems that the petitioner was not heard before the said orders were passed. Moreover, whether the petitioner was served or not is also doubtful.

3. Therefore, before imposing such a huge liability on the petitioner, it was expected from the authority to give an opportunity to the petitioner of being heard. Therefore, without entering into the aspects mentioned hereinabove, on the ground of violation of principle of natural justice, the matter is required to be remanded back to the Deputy Collector, respondent no.2 herein, for hearing the matter afresh.

4. In the result, the petitions are allowed. The impugned orders by which the respondents had fixed the market value of the property in question, purchased by the petitioner and had thereby directed the petitioner, by the said orders, to pay-up the amount of stamp duty along with interest, are quashed and set aside. The matters are ordered to be remanded back to respondent no.2 and the respondent authority is directed to hear the petitioner and to decide the matter afresh, without being influenced by the fact that this Court has quashed its earlier orders or by the observations made by this Court in this order. However, it is made clear that this Court has quashed the orders of the respondent authority only on the ground of the violation of the principle of natural justice and the matter has not been considered on merits.

(K. S. Jhaveri, J.)

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